



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
Michigan Occupational Safety & Health Administration
(MIOSHA)

STEVEN H. HILFINGER
DIRECTOR

GENERAL INDUSTRY SAFETY STANDARDS COMMISSION MEETING

March 16, 2011 at 9:30 a.m.
General Office Building, 1st Floor, Room B
7150 Harris Drive, Lansing, Michigan

MINUTES

COMMISSIONERS PRESENT:

Jeffrey Radjewski, Chairperson
William L. Borch
Jennifer Ewing
AJ Hale
Regina L. Meo

COMMISSIONERS ABSENT:

Dwayne F. Betcher
Karl E. Heim
Elizabeth M. Koto, Vice Chairperson
Thomas Pytlik

DEPARTMENT PERSONNEL PRESENT:

Doug Kalinowski, Director, MIOSHA
Martha Yoder, Deputy Director, MIOSHA
John Peck, Director, Management & Technical Services Division
Daniel Dykstra, Program Manager, Standards Section
Adrian Rocskay, Director, General Industry Safety & Health Division
Sundari Murthy, Manager, General Industry Safety & Health Division
Ron Ray, Manager, Laboratory & Equipment Services Section
Cindy Eicher, Secretary, Management & Technical Services Division
Toscha Densmore, Secretary, Standards Section
Sherry Scott, Manager, Consultation, Education and Training Division
Brett Kabat, Student Assistant, Consultation, Education and Training Division

GUESTS:

Robert "Sandy" Philips, Consumer Energy

MISSION STATEMENT

The mission of the General Industry Safety Standards Commission is to provide the leadership and vision necessary to ensure a safe work environment for the people of Michigan.

The Commission involves employees and employers in the development of safety standards as it endeavors to continually examine and improve those standards for purpose, clarity, applicability, enforceability, and cost effectiveness. Our vision is to be a recognized leader in safety for the work environment for the people of Michigan by incorporating the changing needs of new technologies and methods into our standards.

DELEG is an equal opportunity employer/program. Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

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Agenda Item #1—Call to Order and Roll Call

The March 16, 2011 General Industry Safety Standards Commission meeting was called to order by Chairperson Radjewski. Roll call was taken and a quorum was present. Commissioners, staff, and visitors introduced themselves.

Agenda Item #2—Approval of Minutes from the December 15, 2010 Meeting

A motion was made by Commissioner William Borch and was seconded by Commissioner AJ Hale to approve the minutes of the December 15, 2010 Commission meeting. **MOTION CARRIED UNANIMOUSLY.**

Agenda Item #3—MIOSHA Update—Doug Kalinowski, MIOSHA Director

Mr. Doug Kalinowski gave an update on the new administration for the Department of Energy, Labor & Economic Growth (DELEG). Mr. Steven Hilfinger is the Director, Mr. Mike Zimmer is the Chief Deputy Director and Executive Director of Michigan Administrative Hearing System, Mr. Brian DeBano is Deputy Director, and Mr. Steve Arwood is also a Deputy Director. Mr. Arwood is the Deputy Director who will oversee MIOSHA. Mr. Kalinowski and Ms. Martha Yoder plan to meet next week with Mr. Hilfinger. DELEG will be reorganized and no longer exist effective April 24, 2011. MIOSHA will then be under the new Department of Licensing and Regulatory Affairs (LARA).

Mr. Kalinowski stated that currently most standards activity is on hold while the new administration takes a look at issues. Senate Bill 20 which prohibits any state agency from promulgating a rule regarding workplace ergonomics is on the Governor's desk. The House passed the bill with an amendment to allow MIOSHA to adopt an ergonomics standard if federal OSHA passes one. In the Governor's State of the State Address he used ergonomics as an example of a regulation that goes beyond the federal requirements that we will not be pursuing.

Mr. Kalinowski discussed the budget for MIOSHA. Currently the Federal level of funding is about 50%. Friday March 18, 2011 the two week continuation for the OSHA budget will end. The Feds are proposing about a 7% cut in funding to OSHA. Commissioner Borch asked about cuts to MIOSHA, and Mr. Kalinowski does not believe there will be any cuts. We have been advised that eliminating MIOSHA is no longer on the table. MIOSHA does not receive funding from the general fund of Michigan, however, the penalties that MIOSHA receives, do go into the general fund. Under the Federal budget, it is hoped that State plans will maintain current funding. If the Federal government were to have a shutdown, Mr. Kalinowski stated MIOSHA would not close, and would operate solely on State funding for that time period.

The Commission discussed penalties issued from MIOSHA versus OSHA. The average OSHA penalty is \$1000, while MIOSHA is significantly less. It is often questioned if penalties affect the workforce safety or if it is the presence of MIOSHA? The injury and illness rates are going down in Michigan and we believe that is from everyone taking responsibility for work place safety. There will be discussion next month (April 11) about the current penalty amounts. We are looking at larger penalties for employers that have had multiple violations on the same issues. Raising penalty amounts negatively affect small employers the most. California has the highest penalties of State plan states. California does about 50% fewer inspections than Michigan, but gets about 75% more in Federal funding. Since increasing their penalties OSHA is seeing their appeals going up, mostly for settlement agreements to have penalties reduced.

Mr. Kalinowski stated we lost 30 staff to early retirement. We have been approved to fill one for every two positions lost to the early retirement. MIOSHA is approved for 225 positions, and we seem to stick around 208 filled. Mr. John Peck will be retiring from MIOSHA in two weeks. Mr. Peck will be greatly missed. Ms. Patty Meyer is the new director for Construction Safety & Health Division. We have hired 17 new staff members in the last two months.

Agenda Item #4—Standards Section Update—Daniel Dykstra, Standards Program Manager

Mr. Daniel Dykstra gave an update on progress for Advisory Committees.

1. Currently we have three groups that are meeting on Personal Protective Equipment to become consistent. GI Part 33 is one of the groups, and should have one possibly two more meetings.
2. GI Part 74 Fire Fighting is moving along quite well. Commissioner Hale attended the last meeting and believes things are going well, but there will be a need for a few more meetings. There is an application for the Advisory Committee that we will look at later in the meeting.
3. GI Part 58 Aerial Platforms is complete. However, the MMUTCD is adopted within this standard from MDOT and we are waiting for MDOT to complete their work. MDOT was hoping to be complete by July or August, but have been bumped back, and are now looking at November or December for completion.

Mr. Dykstra pointed out that work on Ergonomics is on hold due to Senate Bill 20 to halt the standard promulgation.

Agenda Item #5—General Industry Safety & Health Division Update—Adrian Rocskay, Director

Dr. Adrian Rocskay gave an update on the progress toward strategic & performance goals.

1. Emphasis: 1.1 is to reduce by 20% the rate of worker injuries and illnesses in high-hazard industries. 13 industries are targeted for this emphasis. We will continue to work with these industries to work on improvement. We need to work more with a few of the industries as they are going the wrong direction. Emphasis: 1.2 is to reduce by 20% the rate of worker injuries, illnesses, and fatalities in workplaces experiencing high rates or with targeted hazards or exposures not covered by Emphasis: 1.1. This goal was a two part goal. Part 1 was to reduce the incident rate, total recordable cases (TRC) per 100 full time workers. MIOSHA exceeded this goal. A 4% reduction to 6.3 was obtained for the first year. Part 2 was to reduce the number of fatalities. This goal was met, as there was a decrease in the number of fatalities to 14, in calendar year 2009. However, in 2010 the number increased to 25. We will be focusing on that.
2. Emphasis: 3.2A is to respond to 97% of complaints within ten working days for enforcement divisions. We are reaching goal.
3. Emphasis: 3.2B is to continue to maintain initiation of investigations of program-related fatalities and catastrophes within one working day. We are reaching goal.
4. Emphasis: 3.2C is to decrease the average number of calendar days from opening conference date to citation issuance date by 10% to protect workers in a timelier manner. Safety is meeting the goal. Health needs to work on meeting the goal.

Dr. Rocskay discussed significant enforcement issues. New assignments were assigned to field staff in high-hazard industries. Focused inspections have been discontinued and all of these inspections are now “wall-to-wall”. Four special new initiatives have been added, they are: National Emphasis Program – Process Safety Management; National Emphasis Program – Recordkeeping; Hexavalent Chromium; and Severe Violator Enforcement Program. When field staff checks on recordkeeping, they verify that records match what employees state during inspection interviews. Diacetyl has been discovered to cause lung disease and research shows the replacement chemical seems to be just as bad. Ms. Sundari Murthy is currently working on Diacetyl. H1N1 is no longer being focused on during inspections. The Severe Violator Enforcement program is part of getting tougher with enforcement. Fatality and catastrophe inspections become severe automatically. Non-fatal inspections with two or more willful violations are considered a severe violator. Ms. Yoder stated we may have our first Severe Violator case in the Construction Safety & Health Division. Under this program, an employer must be told before the closing conference that they are being cited under the severe violator enforcement program. Severe violator citations may be sent to corporate headquarters, and may go to media for coverage. When an establishment is considered a severe violator, we will do a follow-up inspection almost immediately to look at what is going on and to make sure they are still in compliance. If they have the same violations, then they will get cited for repeat violations. The previous policy had inspectors conduct a follow-up inspection within two years. With this program we are speeding up the follow-up process. Ms. Yoder stated that if a Severe Violator has other company locations within Michigan, those locations will be inspected as well.

Dr. Rocskay also discussed significant outreach activities. GISHD has three new fact sheets: 1910.146 Permit Required Confined Space (PRCS), Acetylene, and Agricultural Field Sanitation. There are five more fact sheets in progress: General Information on Standards, Part 511 Temporary Labor Camps, Adult and Child Care Industries, Electrical Shock Hazards, and Hair Straightening Products and Formaldehyde. There was discussion on the limited enforcement MIOSHA has with agricultural farms. Dr. Rocskay gave an update on two Partnerships that MIOSHA has. UAW/Ford Partnership is scheduled for signing April 8, 2011. GISHD lost a lot of staff with the retirement incentive and staff moving to other divisions. GISHD is currently in the process of hiring three Safety Officers, two Health Supervisors, one Industrial Hygienist Specialist, two Industrial Hygienists, two Safety Supervisors, two Word Processing Assistants, one Rights Representative Manager, one Departmental Technician, and one Safety & Health Manager.

Agenda Item #6—Old Business

a. Advisory Committee Applications

- i. GI Part 19 Crawler, Locomotive and Truck Cranes - Forest Ervay, Labor Representative
- ii. GI Part 20 Underhung Cranes and Monorail Systems - Forest Ervay, Labor Representative
- iii. GI Part 33 Personal Protective Equipment - Gary Boyer, Technical Advisor
- iv. GI Part 74 Fire Fighting - David Peterson, Management

Commissioner Borch made a motion to appoint the above Advisory Committee applicants. Commissioner Hale seconded. **MOTION CARRIED UNANIMOUSLY.**

Agenda Item #7—New Business

Chairperson Jeffrey Radjewski thanked Mr. Peck for his years of service.

a. Michigan Injuries and Illnesses Rates – John Peck, Director, MTSD (HO#7/8)

Mr. John Peck provided a handout showing an evaluation of the illness and injury rates for Michigan versus federal and other Great Lake States (Illinois, Indiana, Minnesota and Wisconsin). Mr. Peck reviewed the rates for selected strategic plan industries including manufacturing, beverage/tobacco products, private hospitals, private nursing/residential care facilities, as well as the construction industry. Mr. Peck reviewed total recordable cases (TRC) rates and cases with days away from work, job transfer or restriction (DART).

There was discussion about the savings an employer could have if they applied ergonomic standards.

Agenda Item #8—Public Comment

None

Agenda Item #9—Next Meeting

Chairperson Radjewski reminded the Commissioners that the next meeting will be Wednesday, June 15, 2011 at the General Office Building in Conference Room B.

Agenda Item #10—Adjournment

A motion was made by Commissioner Borch and was seconded by Commissioner Hale that with no further business before the Commission, the meeting be adjourned. **MOTION CARRIED UNANIMOUSLY.**

Jeffrey Radjewski, Chairperson

Date